industry.[47] Crowell & Moring agrees, arguing that "if the Commission modifies the protected service area for the ADI licensee of the MDS channels, then it must also adopt a corresponding modification to Section 74.903(d) of the Commission's Rules."[48] While that suggestion has facial appeal, it flies in the face of the Commission's preference for licensing ITFS entities only in areas where they are "local" and for maximizing the number of ITFS licensees.

*D. The Commission Should Assure That New MDS Facilities Adequately Protect Previously Proposed ITFS Stations, While Streamlining Unnecessary Regulatory Burdens.*

One of the topics that is invariably addressed whenever the Commission revisits its MDS application rules is the subject of ITFS interference protection. This proceeding is no exception.

In its comments, the National ITFS Association ("NIA") expressed concern that the *NPRM* was proposing to eliminate interference protection requirements imposed on applicants for new MDS stations.[49] While WCAI suspects that the language in the *NPRM* to which NIA

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[47] *See* WCAI Comments, at 41.

[48] Crowell & Moring Comments, at 9.

[49] *See* Comments of Nat'l ITFS Ass'n, MM Docket No. 94-131 and PP Docket No. 93-523, at 3 (filed Jan. 23, 1995). WCAI must disagree with NIA's proposal that ITFS applicants that do not affiliate with a wireless cable operator be exempt from electronic application filing. *See id* at 4. As WCAI explained in its initial comments, the cost of electronic filing is small indeed compared to the benefits associated with an ITFS license. *See* WCAI Comments, at 49-50. Other ITFS interests have also recognized that the full benefits of an electronic filing system would be lost unless all applicants are required to comply. *See* Comments of South Carolina Educational Television, State of Wisconsin - Educational Communications Board, and University of Maine System, MM Docket No. 94-131 and PP Docket No. 93-253, at 2 (filed Jan.. 9, 1995).

points was not intended to suggest an elimination of the ITFS protection rules, WCAI nonetheless urges the Commission to make clear that no matter how authorized, new MDS stations will be required to afford interference protection measured by the current co-channel 45 dB desired to undesired ("D/U") signal ratio and the adjacent channel 0 dB D/U ratio.[50/]

While WCAI opposes any effort to reduce the substantive protection afforded the ITFS community, WCAI agrees with those that believe the Commission's rules designed to protect ITFS interests can be substantially streamlined. More specifically, WCAI joins with ACS and USWC in calling for elimination of the provision of Section 21.902(i)(6)(i) of the Rules giving ITFS interests 120 days to petition to deny any application for a new or modified MDS station.[51/] Indeed, more than three years ago, WCAI petitioned for reconsideration of the order adopting the 120-day rule, a petition that remains pending.[52/] This rule has unnecessarily delayed the inauguration of wireless cable service in many markets, as MDS applications lay unprocessed awaiting the end of the 120-day period. Particularly since an ITFS application is only subject to petitions to deny for thirty days following public notice

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[50] For the reasons WCAI expressed in its initial comments, the Commission should reject the efforts to water-down the 45 dB D/U ratio used to calculate co-channel interference protection where frequency offset is used. *See* WCAI Comments, at 12 n. 28. The Commission should note that at WCAI's First Annual Technical Symposium held just this past weekend in Tampa, FL, it was confirmed: (i) that there remains much disagreement as to the specific benefits realized through use of frequency offset; and (ii) that the use of frequency offset to closely-spaced stations could preclude the transition of one or the other of the closely-spaced stations to digital technology. Thus, WCAI reiterates its view that the Commission should refrain from revisiting the co-channel interference protection requirements at this time.

[51] *See* ACS Comments, at 16; USWC Comments, at 11.

[52] *See* Petition of Wireless Cable Ass'n for Partial Reconsideration, Gen. Docket No. 90-54, at 16-20 (filed Dec. 13, 1991).

of its acceptance for filing,[53] there is no valid reason for retention of the 120-day provision of Section 21.902(i)(6)(i).

## III. CONCLUSION.

The Commission has before it a unique opportunity to expedite the inauguration of competitive wireless cable systems in markets across the country. The Commission must refrain, however, from attempting to force the square MDS peg into the round PCS/IVDS auction hole. While the Commission is justifiably proud of the revenue it has raised through auctions for new services, it must recognize that MDS is an existing service, with many stations already operating, that wireless cable systems need more than just MDS channels to be competitive with cable, and that the few licenses still to be issued will be of relatively low value unless the scam artists corrupt the process. If the Commission adopts the proposals advanced by WCAI here and in its initial comments, wireless cable systems will be launched in many markets across the country. As the entrenched cable monopoly faces true competition for the first time, multichannel video subscribers can be expected to realize hundreds of millions of dollars in savings. To achieve that goal, however, the Commission

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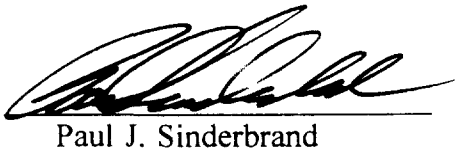
[53] *See* 47 C.F.R. § 74.912(a).

must refrain from creating artificial mutual exclusivity among applications and otherwise assist operators in accumulating the critical mass of channels needed to compete.

Respectfully submitted,

THE WIRELESS CABLE ASSOCIATION
INTERNATIONAL, INC.

By: 

Paul J. Sinderbrand
William W. Huber

Sinderbrand & Alexander
888 Sixteenth Street, N.W.
Fifth Floor
Washington, D.C. 20006-4103
(202) 835-8292

Its Attorneys

February 7, 1995

## CERTIFICATE OF SERVICE

I, Deanna L. Susens, hereby certify that the foregoing Reply Comments on Notice of Proposed Rulemaking in MM Docket No. 94-131 & PP Docket No. 93-253 was served this 7th day of February, 1995, by depositing a true copy thereof with the United States Postal Service, first-class postage prepaid, addressed to the following:

Robert J. Rini
Stephen E. Coran
Steven A. Lancellotta
Rini & Coran, P.C.
Dupont Circle Building
1350 Connecticut Avenue, N.W.
Suite 900
Washington, DC 20036
(202) 296-2007
Counsel for ACS Enterprises, Inc., et al.

William F. Hammett, P.E.
Dane E. Ericksen, P.E.
Hammett & Edison, Inc.
Consulting Engineers
Box 280068
San Francisco, CA 94128-0068
(707) 996-5200

Thomas J. Dougherty, Jr.
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, DC 20005
(202) 408-7100
Counsel for American Telecasting, Inc.

Peter D. Shields
Lauren S. Drake
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, DC 20005
(202) 408-7100
Counsel for Heartland Wireless Communications, Inc.

Keith J. Epstein
Bruce A. Ramsey
Pacific Telesis Enhanced Services
3401 Crow Canyon Road
San Ramon, CA 94583
(510) 806-5555

Wayne Coy, Jr.
Cohn & Marks
1333 New Hampshire Avenue, N.W.
Suite 600
Washington, DC 20036-1573
(202) 452-4836
Counsel for National ITFS Association

Louis Robert du Treil, Jr.
du Treil, Lundin & Rackley, Inc.
240 N. Washington Blvd.
Suite 700
Sarasota, FL 34236
(813) 366-2611

George W. Harter, III
T. Lauriston Hardin, P.E.
Ronald J. Meyers
John W. Beck
William R. Warren
Hardin & Associates, Inc.
5750 Chesapeake Blvd.
Suite 203
Norfolk, VA 23513-5325
(804) 853-3238

Edwin N. Lavergne
Darren L. Nunn
Ginsburg, Feldman & Bress
1250 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 637-9000
Counsel for Caritas Telecommunications

John Dalager, President
Dalager Engineering Co.
P.O. Box 548
Bath, SD 57427
(605) 229-2412

Richard L. Vega, Jr., President
The Richard L. Vega Group
235 Hunt Club Boulevard
Suite 101
Longwood, FL 32779
(407) 682-7104

Robert F. Corazzini
Michael J. Lehmkuhl
Pepper & Corazzini, L.L.P.
1776 K Street, N.W.
Suite 200
Washington, DC 20006
(202) 296-0600

Gerald Stevens-Kittner
Peter H. Doyle
Arter & Hadden
1801 K Street, N.W.
Suite 400 K
Washington, DC 20006
(202) 775-7100
Counsel for CAI Wireless Systems, Inc.

James A. Stenger, Esq.
Ross & Hardies
888 16th Street, N.W.
Suite 400
Washington, DC 20006
(202) 296-8600
Counsel for United States Wireless Cable, Inc.

Daniel J. Marshall, President
Marshall Communications, Inc.
1231 Laredo Ct.
Reno, NV 89503

John T. Scott, III
William D. Wallace
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2959
(202) 624-2582

Frank M. Sahlman, Sr., President
Vermont Wireless Coop
5 Fairground Road
P.O. Box 268
East Corinth, VT 05040
(802) 439-5666

Caressa D. Bennet
Law Offices of Caressa D. Bennet
1831 Ontario Place, N.W.
Suite 200
Washington, DC 20009
(202) 319-7667
Counsel for The Rural Wireless Cable Coalition

Todd D. Gray
Dow, Lohnes & Albertson
1255 Twenty-third Street, N.W.
Suite 500
Washington, DC 20037
(202) 857-2500
Counsel for South Carolina Educational Television Commission, et al.

David L. Nace
Marci E. Greenstein
Lukas, McGown, Nace & Gutierrez, Chartered
1111 19th Street, N.W.
Twelfth Floor
Washington, DC 20036
(202) 857-3500
Counsel for Sioux Valley Rural Television, Inc.

L. Paul Hudgins
Corporate Counsel
Mitchell Communications Corp.
2494 Jett Ferry Road
Suite 201
Atlanta, GA 30338
(404) 913-0664

Deanna L. Susens